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Message Text

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PAGE 01 STATE 154510
ORIGIN L-03

INFO OCT-01 ARA-10 ISO-00 JUSE-00 CA-01 HA-05 /020 R

DRAFTED BY L/M:KEMALMBORG:AD
APPROVED BY L/M:KEMALMBORG
JUSTICE - MR. STEIN (SUB)
ARA/ECA- MR. GRAHAM
L/T - MR. BOYD (INFO)
----------118505 171428Z /43
R 170045Z JUN 78
FM SECSTATE WASHDC
TO AMEMBASSY MONTEVIDO

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E.O. 11652: N/A

TAGS: PDIP, UY

SUBJECT: US-GOU EXTRADITION TREATY

REFDEPTEL 265661 (1976)

1. REFTEL IS LAST THING IN L FILES ON URUGUAY'S FAILURE TO RATIFY EXTRADITION TREATY. WHAT IS CURRENT STATUS?

2. URUGUAY HAD DESCRIBED DEATH PENALTY AS OBSTACLE TO LEGISLATIVE APPROVAL OF EXTRADITION TREATY AND PROPOSED AMENDMENT OF ARTICLE 7. REFTEL EXPLAINED THAT AMENDMENT WOULD REQUIRE RESUBMISSION TO OUR SENATE AND SUGGESTED PROBLEM BE DEALT WITH BY UNDERSTANDING BETWEEN URUGUAY'S EXECUTIVE AND LEGISLATURE ON HOW URUGUAY WOULD IMPLEMENT REQUIREMENT OF PRESENT ARTICLE 7 FOR ASSURANCE SATISFACTORY TO URUGUAY. PERTINENT TEXT OF REFTEL SET FORTH PARA 4 BELOW.
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3. L HAS NO RECORD OF GOU RESPONSE TO THIS SUGGESTION OR, INDEED ANY REPORT ON STATUS OF TREATY SINCE REFTEL. JUSTICE DEPARTMENT HAS ASKED THAT SUBJECT BE RAISED WITH GOU. PLEASE DO SO AND REPORT.

4. "ARTICLE 7 OF THE TREATY PROVIDES THAT IF THE DEATH

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PENALTY IS POSSIBLE UNDER THE LAWS OF THE UNITED STATES
BUT NOT THAT OF URUGUAY, URUGUAY MAY REFUSE EXTRADITION
UNLESS GIVEN ASSURANCES BY THE UNITED STATES THAT THE
DEATH PENALTY WILL NOT BE IMPOSED. THE CONTROL IS IN THE
HANDS OF THE GOU. THE PROPOSED ARTICLE 7 IN REFTEL PRO-
VIDES NO ADDITIONAL ASSURANCE THAN ALREADY PROVIDED FOR
UNDER PRESENT ARTICLE 7. GOU CAN REQUEST BY NOTE THAT
ASSURANCE OF USG TAKE FORM OF COMMITMENT THAT THE DEATH
PENALTY BE COMMUTED TO PRISON TERM. THE USG CAN COMPLY
BY GETTING ASSURANCE FROM STATE GOVERNOR THAT IF DEATH
PENALTY IMPOSED, GOVERNOR WOULD COMMUTE DEATH SENTENCE.
IF GOU NOT SATISFIED WITH SUCH ASSURANCE, THEY CAN REFUSE
EXTRADITION. IT IS MOST UNLIKELY THAT GOVERNOR WOULD
RENEGE ON ASSURANCE GIVEN SEVERE PRESSURE DEPARTMENT WOULD
EXERT IN SUCH FOREIGN RELATIONS MATTERS.

"IN ORDER TO ALTER ARTICLE 7 BY EXCHANGE OF NOTES, IT WOULD
BE NECESSARY FOR US TO GO THROUGH ENTIRE TREATY PROCEDURE,
INCLUDING CONSENT TO RATIFICATION BY SENATE, AGAIN AND NO
MORE ASSURANCE COULD BE AFFORDED GOU THAN IS ALREADY CON-
TAINED IN PRESENT ARTICLE 7.

"RATHER THAN REOPEN TREATY PROCESS, SUGGEST THAT GOU CON-
SIDER AN UNDERSTANDING WITH ITS LEGISLATURE AS PART OF
GOU RATIFICATION PROCESS THAT GOU WOULD REQUIRE A COMMIT-
MENT FOR COMMUTATION IN ANY CASE ARISING UNDER ARTICLE
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5. IN U.S. PRACTICE, SUCH AN UNDERSTANDING WOULD BE
BINDING ON EXECUTIVE BUT, UNLIKE A RESERVATION, NOT
REQUIRE CONCURRENCE OF OTHER PARTY TO TREATY."

6. FYI: ABOVE MESSAGE SHOWN TO AMBASSADOR PEZZOLLO AND
PER HIS REQUEST WE WILL POUCH BACKGROUND ON THIS MATTER
IN EVENT EMBASSY FILES ARE NOT COMPLETE. NEWSOM

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Draft Date: 17 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 20 Mar 2014
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Disposition History: n/a
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